

## **REMARKS/ARGUMENTS**

### **Status of the Claims**

Entry of the amendment and reconsideration of the present application is respectfully requested. Claims 1, 4, 6, 11-15, 19-23, 26-29, and 36-42 are pending in the current Amendment. Claims 1, 6, 11-12, 14, 19-21, 23, 26, 28-29, and 39 have been amended, claims 3, 7-10, and 24-25 have been cancelled, and claim 42 has been added. Support for new claim 42 is found, for example, in claims 12, 13, 20, and 21 as originally filed. Support for these amendments is found throughout the claims and specification as originally filed. No new matter has been introduced by these amendments. Applicants reserve the right to pursue the content of any cancelled or amended claims in continuing applications.

### **Telephone Interview**

Applicants thank the Examiner for the telephone discussion of May 31, 2007 regarding the pending Office Action. Issues regarding 112 1<sup>st</sup> paragraph rejections were discussed and clarified, no agreement was reached.

### **Claim Rejection – 35 USC §112, 2nd Paragraph**

Claims 9-10 were rejected under 35 USC §112, 2nd paragraph as being indefinite for the reasons of record.

In order to expedite prosecution, claims 9-10 have been cancelled, thereby obviating the rejection.

### **Claim Rejection – 35 USC §112, 1st Paragraph, Written Description**

Claims 1, 5-15, 19-29, and 36-41 were rejected under 35 USC §112, 1st paragraph as containing subject matter which was not described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventor(s), at the application was filed, had possession of the claimed invention.

Claims 1, 5-15, and 19-29 were rejected for the reasons of record, new claims 36-41 presented 1/8/07 are included in the rejection.

Claims 7-10 and 24-25 have been cancelled. Claim 1 has been amended to recite "a nucleotide sequence encoding the WUSCHEL polypeptide of SEQ ID NO: 6 or SEQ ID NO: 8", thereby obviating the rejection of claims 1, 5-15, 19-29, and 36-41 under 35 U.S.C. §112, 1st paragraph for lack of written description.

#### **Claim Rejection – 35 USC §112, 1st Paragraph, Enablement**

Claims 1, 5-15 and 19-29 were rejected under 35 USC §112, 1st paragraph as containing subject matter which was not described in the specification in such a way to enable one skilled in the art to which it pertains to make and use the invention for the reasons of record.

Claims 7-10 and 24-25 have been cancelled. Claim 1 has been amended to recite "a nucleotide sequence encoding the WUSCHEL polypeptide of SEQ ID NO: 6 or SEQ ID NO: 8".

**Appendix A** presents a FrameAlign generated using GCG (Accelrys, San Diego, CA) which demonstrates that SEQ ID NO: 62 (from Serial No. 10/744,572) encodes the polypeptides of SEQ ID NOs: 6 and 8. SEQ ID NO: 62 is a genomic DNA isolated from inbred 3DT using sequence information from the library clone p0016.ctsas50r, for which the EST sequence (SEQ ID NO: 5) encoding the polypeptide of SEQ ID NO: 6, and the full-insert sequence (FIS) (SEQ ID NO: 7) encoding the polypeptide of SEQ ID NO: 8 are currently under examination.

The experiment described in Example 8 of the instant application was performed and confirmed that introduction of Wuschel stimulates *in vitro* growth of plant tissue. **Appendix B** presents Example 8 and Figure 2 from Serial No. 10,744,572 (which is a continuation-in-part of the instant application) demonstrating that transformation of maize embryos with a polynucleotide (SEQ ID NO: 62) encoding SEQ ID NOs: 6 and 8 stimulates *in vitro* growth of plant tissue. Application

Serial No. 10/744,572 is also submitted in an Information Disclosure Statement, filed concurrently with this Amendment, for consideration by the Office.

Applicant submits that the specification as filed enables one skilled in the art to which it pertains to make and use the invention of claims 1, 4, 6, 11-15, 19-23, 26-29, and 36-41, therefore, the rejection of these claims under 35 USC §112, 1st paragraph for lack of enablement should be withdrawn, and further not applied to new claim 42.

### **CONCLUSION**

Applicant respectfully requests entry and reconsideration of the amendment. Applicant believes all objections and rejections have been overcome and the application is in condition for allowance. The Examiner is invited to contact the undersigned representative by telephone to expedite prosecution and allowance of the application.

Applicant's representative notes that in the previous response, the representative's registration number may have contained a typographical error. The correct registration number (48,243) for representative Virginia Dress is confirmed below, and the representative apologizes for failing to notice any earlier error and any inconvenience to the Office or Examiner.

Respectfully submitted,

/Virginia Dress/  
Virginia Dress, Reg. #48,243

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